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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

RHONDA GARRETT,	:	Hon. Jose L. Linares
	:	
Plaintiff,	:	Civil Action No. 05-1164
	:	
v.	:	<u>NOTICE OF MOTION</u>
	:	
THE UNITED STATES	:	
DEPARTMENT OF VETERANS	:	
AFFAIRS, JIM NICHOLSON,	:	
SECRETARY OF THE UNITED	:	
STATES DEPARTMENT OF	:	
VETERANS AFFAIRS, PATRICK	:	
TROY,	:	
	:	
Defendants.	:	

TO: Ryan Linder, Esq.
Childress & Jackson, LLC
280 South Harrison Street
Suite 200
East Orange, New Jersey 07018

PLEASE TAKE NOTICE that on Monday, January 9th, 2006, at 10:00 AM, or as soon thereafter as counsel may be heard, the defendant, Jim Nicholson, Secretary of Veterans Affairs, through his attorney, Christopher J. Christie, United States Attorney for the District of New Jersey (Peter G. O'Malley, Assistant United States Attorney, appearing), will move before the Hon. Jose L. Linares of this Court, at Newark, New

Jersey, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the claims raised in paragraphs 10, 11, 12,13,14, 15, 16, 18, 19, 20, 21, 24, 25, 26, 32, 33, 37, 40, 41, 42, 43, 47, 48, and Count Five of the complaint in the captioned matter for failure to state a claim on which relief can be granted. In addition, defendant will move to dismiss, or, in the alternative, for summary judgment as to plaintiff's Rehabilitation Act claim, Count Four, pursuant to Fed. R. Civ. P. 56, in that plaintiff has not established that she is a qualified individual with a disability. Defendant will also move to dismiss the complaint as to named defendant Patrick Troy as an improper defendant.

The defendant will rely on the brief and declaration, with exhibits, filed herewith. This motion may be decided on the papers, without oral argument, pursuant to Fed. R. Civ. P. 78.

CHRISTOPHER J. CHRISTIE
United States Attorney

S / Peter G. O'Malley
PETER G. O'MALLEY
Assistant U.S. Attorney

Dated: December 1st, 2005